

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALTON MCDONALD

Plaintiff,

vs.

CITY OF FEDERAL WAY, a Municipal Corporation; Individual FEDERAL WAY POLICE DEPARTMENT, FORMER CHIEF OF POLICE ANNE E. KIRKPATRICK (in her individual capacity) and JOHN DOE KIRKPATRICK; LIEUTENANT EDWARD O. FADLER, #23, (in his Individual Capacity) JANE DOE FELDER; BRIGIT L. CLARY, #0105, PATROL OFFICER (in her individual capacity) and JOHN DOE CLARY; MANUELL C. MAIRS, #66, PATROL OFFICER (in his individual capacity) and JANE DOE MAIRS, husband and wife and the marital communities comprised thereof.

Defendants.

NO. C 67-0396 RSL

COMPLAINT FOR DAMAGES

1. UNREASONABLE SEIZURE BY USE OF EXCESSIVE FORCE IN VIOLATION OF 42 U.S.C. § 1983 AND ART. 1, §§ 3, 7 OF WASHINGTON STATE CONSTITUTION
2. VIOLATION OF CIVIL RIGHTS BASED ON RACE IN VIOLATION OF 42 U.S.C. § 1981
3. VIOLATION OF IV AMMENDMENT RIGHTS
4. CONSPIRACY TO VIOLATE CIVIL RIGHTS IN VIOLATION OF 42 U.S.C. § 1985
5. NEGLIGENT SUPERVISION
6. ASSAULT AND BATTERY
7. FALSE ARREST AND IMPRISONMENT
8. NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS
9. INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS

DEMAND FOR JURY TRIAL

COMPLAINT FOR DAMAGE



Alton McDonald
P.O. Box 9005
Tacoma, WA 98409

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7

I. ORIGINAL COMPLAINT

4 TO THE HONORABLE COURT:

5 COMES NOW Plaintiff ALTON MCDONALD, Pro Se/Citizen and Party to this action, an
6 innocent African American, citizen of Pierce of County hereby complains against defendants, CITY OF
7 FEDERAL WAY, a Municipal Corporation; FEDERAL WAY POLICE DEPARTMENT, Anne E.
8 KIRKPATRICK, former Chief of Police, Edward O. FADLER, #23, Lieutenant (Supervisor), Brigit L.
9 CLARY, #0105, Patrol Officer and Manuell C. MAIRS, #66, Patrol Officer as follows:

II. STATEMENT OF CLAIMS

1. This is an action to vindicate the violations of Plaintiff's civil rights and to redress the unlawful and discriminatory conduct of unlawful law enforcement practices of the defendants. This action arise out of the illegal, intolerably and humiliating actions and racially harrassive conditions imposed upon the Plaintiff Alton McDonald by the Defendants CITY OF FEDERAL WAY, a Municipal Corporation; Anne E. KIRKPATRICK, former Chief of Police, Edward O. FADLER, #23 Lieutenant, (Supervisor) Brigit L. CLARY, #105, Patrol Officer, and Manuell C. MAIRS, #66, Patrol Officer, compelling the Plaintiff to succumb to false arrest without legal cause, arrested for reckless driving and refusal to provide information, used excessive force, racial profiling, treated me like an animal, cruel and usual treatment because of his race, African American, in violation his rights under the IV and XIV Amendment of the United States Constitution, Civil Rights act of 1866, as amended by the Civil Rights Restoration Act of 1991, 42 U.S.C. §§ 1983 and 1985(3).
2. As a result of the discriminatory and harrassive actions of the defendants their agents and assigns, the situation was humiliating to Plaintiff causing me extreme emotional distress, and humiliation, Plaintiff now seeks injunctive relief, monetary damages, compensatory damages and punitive damages pursuant to 42 U.S.C. § 1988.

COMPLAINT FOR DAMAGES

- 2 -

**Alton McDonald
P.O. Box 9005
Tacoma, WA 98409**

III. JURISDICTION and VENUE

3. Pursuant to 28 U.S.C. §§ 1331 and 1334, This court has jurisdiction over Plaintiff's claims in that they involve a federal questions under the laws and Constitution of the United States to redress the unlawful deprivation of Plaintiff's rights secured, guaranteed, and protected by federal law. Specially 42 U.S.C. §§ 1981, 1983 and 1985(3). Also, this Court has jurisdiction pursuant to 28 U.S.C. §§ 2201 and 2202 relating to declaratory judgments.
4. This Court maintains supplemental jurisdiction pursuant to 28 U.S.C. § 1337(a) over Plaintiff's claims under Washington State Constitution and Common Law.
5. Venue is proper under 28 U.S.C. § 1331(b)(1) and (2) because Defendant City of Federal Way is located in this judicial district; the individuals Defendants on information and belief, reside in this judicial district and all events or omissions giving rise to the claims alleged herein occurred in King County and in this judicial district

IV. PREREQUISITES TO SUIT

6. An administrative Claim for damages was filed with the City of Federal Way on December 11, 2006. More than 60 have expired since the administrative claim was filed. There are no unfulfilled prerequisites to suit.

V. PARTIES

7. At all times material herein, Plaintiff has been a citizen of the United States of America and resident of Tacoma in Pierce County, Washington.
8. Defendant City of Federal Way is a Municipal Corporation organized under the laws of the State of Washington.
9. Defendant Anne E. KIRKPATRICK, former Chief of Police and was employed by City of Federal Way, Federal Way Police Department. At all times relevant hereto Former CHIEF KIRKPATRICK was acting within the scope of her employment and under the color of law. She and Defendant John Doe KIRKPATRICK at relevant times formed a martial community under the

1 laws of the State of Washington. All actions taken by Defendant Anne E. KIRKPATRICK were
2 taken in furtherance of the interests of said marital community.

3 10. Defendant Edward O. FADLER, #23, Lieutenant, (Supervisor) is employed by City of Federal
4 Way, Federal Way Police Department. At all times relevant hereto LIEUTENANT FADLER was
5 acting within the scope of his employment and under the color of law. He and Defendant Jane
6 Doe FADLER at relevant times formed a martial community under the laws of the State of
7 Washington. All actions taken by Defendant Edward O. FADLER were taken in furtherance of
8 the interests of said marital community.

9 11. Defendant Brigit L. CLARY, #0105, Patrol Officer is employed by City of Federal Way, Federal
10 Way Police Department. At all times relevant hereto Officer CLARY was acting within the scope
11 of her employment and under the color of law. She and Defendant John Doe CLARY at relevant
12 times formed a martial community under the laws of the State of Washington. All actions taken
13 by Defendant Brigit L. CLARY were taken in furtherance of the interests of said marital
14 community.

15 12. Defendant Manuell C. MAIRS, #66, Patrol Officer is employed by City of Federal Way, Federal
16 Way Police Department. At all times relevant hereto Officer MAIRS was acting within the scope
17 of his employment and under the color of law. He and Defendant Jane Doe MAIRS at relevant
18 times formed a martial community under the laws of the State of Washington. All actions taken
19 by Defendant Manuell C. MAIRS were taken in furtherance of the interests of said marital
20 community.

21 13. The true names and capacities, whether corporate, associate, governmental or individuals, of
22 Defendants sued herein.

23 14. At all times material to this complaint, some of the individual Defendants had executive and/ or
24 supervisory responsibility for the acts of named individual Defendants. Said executive and/ or
25 supervisory Defendants possessed final policy-making decisional authority regarding issues
26 including law enforcement, discipline and/ or training within the Federal Way Police Department.

1 They were responsible for the policies, practices and customs of said municipal Defendants,
 2 and/ or the hiring, screening, training, supervising, disciplining, counseling and control of the
 3 police officers or law enforcement dogs under their command, including some of the individual
 4 Defendants named therein.

5 **VI. FACTS**

6 15. On January 29, 2005, approximately 05:25 A.M. Plaintiff was traveling North Interstate 5, exited
 7 on Exit 142A North Bend, Auburn towards Auburn, on Highway 18 East, with my left signal
 8 flashing, plaintiff safely merged into the right lane onto Highway 18. Thereafter, Plaintiff observed
 9 a patrol car in his outer left lane approaching his vehicle; the patrol car passed my vehicle.
 10 Plaintiff observed a Female officer on her cellular phone and to my surprised, the patrol vehicle
 11 cut me off (merged directly in front of my vehicle) without using a turn signal. I immediately apply
 12 my brakes to prevent rear ending the Officer's vehicle. I flashed my lights once at the driver to
 13 get her attention or to see if the Officer was okay. The Officer accelerated her patrol car and then
 14 applied her brakes. I immediately signaled, observed my left lane and safely change into the left
 15 lane.
 16

17 16. The Officer now known to me as Brigit L. CLARY # 0105. Officer CLARY applied her brakes and
 18 I eventually passed her patrol car and seconds thereafter, she turned on her overhead lights and
 19 pulled me over. I immediately pulled my vehicle over to the right and stopped. While waiting for
 20 the Officer CLARY, I secured my driver's license in my left hand. I called 911 because my
 21 intuition told me that this was going to be a hostile contact. I requested a Sergeant through the
 22 911 Operator to assist in the traffic stop. The 911 operator ask me where I was located, I told her
 23 I was just off Interstate 5 on Highway 18 East going towards Auburn.
 24

25 17. The Operator asked me for markers, I told her that there were just construction cones. The 911
 26 operator stated that she would take my complaint and transfer my call to the Federal Way 911
 27 Operator # 54. My call was transferred to the Federal Way 911 Operator #54 who informed me
 28 that a Lieutenant was on his way to assist.
 29

1 18. During my conversation with the operator, I saw Officer CLARY approaching my vehicle; my
2 driver's window which was partially down where the officer could have made contact with me.
3 During contact and to my surprise, Officer CLARY started banging on my driver's window, yelling
4 at me to get of the phone. I told the Officer CLARY that I was talking with the 911 operator and
5 requesting for a Sergeant because I was fear for my life. She was very hostile, threatening, and
6 aggressive towards me for no apparent reasons.
7

8 19. At no time, did she requested to see my driver's license, car insurance or registration, even
9 though I had my driver's license in my left hand. Officer CLARY walked back to the rear of my
10 vehicle (standing and facing Highway 18 East) and had no further contact with me. Officer
11 CLARY'S action's made me in fear for my life.

12 20. Shortly, I observed another patrol vehicle arrived on the scene, now known to me as Officer
13 Steve OLSON # 0101(second Officer on the scene) who was standing on the right passenger
14 side to the front of my vehicle looking at us as I was walking to the rear of my vehicle,
15

16 21. Thereafter, an unmarked patrol vehicle with flashing lights drove up and stopped in front of my
17 vehicle. The Officer got out of his vehicle and as he approaches my vehicle, he started yelling at
18 me in a hostile, threatening and aggressive manner to get out of my vehicle. Again, I was in fear
19 for my life. I, immediately, opened my vehicle door and got out. The Officer now known to me as
20 Lieutenant Edward O. FADLER #23, Supervisor (third Officer on the scene).

21 22. Lieutenant FADLER pointed and told me to walk back to the rear of my vehicle where Officer
22 CLARY was standing. Lieutenant FADLER slammed my car door so hard, it shook my vehicle
23 and left a ringing sound in my ears for seconds.

24 23. Officer Clary Stated to (Lieutenant FADLER) I that "I wanted to fight her." I told Officer CLARY
25 that "was impossible, because I was sitting in my vehicle talking with the 911 Operator and
26 holding my driver's license in my left hand and was waiting for the Officer to ask me for my
27 driver's license, car registration, and insurance, of which she did not."
28

1 24. Officer CLARY told me to turn around, handcuffed me and placed me in the back of her patrol
2 vehicle and slammed the door. She did not read me my Miranda warning when she placed me
3 under arrest.

4 25. Later, Lieutenant FADLER came over and opened the patrol vehicle door and asked me, "If I
5 was talking to the 911 operator?" I told him "yes".

6 26. Lieutenant FADLER asked me, "Why did I make a missing person report." I told him, "I did not."
7 He slammed the door and walked away.

8 27. Officer CLARY transported me to the Federal Way Police Station. During transport, she did not
9 seat belt me in vehicle and was driving very aggressively which made me move from side to side
10 in the vehicle which put my life in further danger. Officer CLARY did not wear her seat during the
11 transport.

12 28. Upon arrival at the station, she opened the patrol car door and I got out. She grabbed and pulled
13 my right arm. I told Officer CLARY that she was hurting me, but she ignored me. Inside the
14 building, in the FIRST hallway, I told Officer CLARY that "I am a Human Being and she should
15 not treat me in such a disrespectful manner." Officer CLARY said to me, "No, you are property
16 and Chattel" (meaning slave).

17 29. Officer Clary asked me, "If I wanted to fight her, because I am so buffed, and I think I am bad? I
18 said to Officer CLARY, "why would I want to fight you." Officer CLARY stated to me that, "I
19 threatened to kill a State Patrol Officer." Officer Clary directed me into the cell room.

20 30. A few minutes later, a Caucasian male Officer came from around the counter where several
21 other Officers were congregating and handcuffed my left ankle to the steel bench bar and then
22 he removed the handcuffs from my hands.

23 31. Officer Clary came back to the cell room, removed my hat from my head and threw it on the floor
24 outside the cell room and slammed the door in my face.

25 32. Officer CLARY gave me a *Criminal Citation* for "Reckless Driving," Ticket #34818FW; under
26 Federal Way Traffic Code 15-1 and RCW 46.61.500.

1 33. Officer Manuell C. Mairs, #66 transported me to the Fife City Jail. Prior to the transport, Officer
2 MAIRS handcuffed me and tightened the handcuffs around my wrist which was very painful. I
3 asked Officer MAIRS if he would loosen the handcuffs and he refused to do the same.
4 34. During my transport, Officer MAIRS did not seat belt me in his patrol car which once again put
5 my life in further danger. Officer MAIRS did not wear his seat belt.
6 35. Upon my arrival at the Fife Jail, I asked Officer CHAMPION #265 (Fife Officer) to take a picture
7 of my wrists that shows the imprints of the handcuffs marks.
8 36. Officer CHAMPION #265 took a picture of my wrists that shows the imprints of the handcuffs
9 marks.
10 37. During processing at the Fife Jail, the phone rang; Officer CHAMPION answered the phone and
11 handed it to Officer MAIRS, wherein he started talking to someone on the other end. Officer
12 MAIRS who wrote another *Criminal Citation* on said ticket, "Refusal to Give Information or
13 Cooperate with Officer" under Federal Way Traffic Code 15-1 and RCW 46.61.020. Officer
14 MAIRS left my copy of the ticket with Officer CHAMPION and departed the Jail.
15 38. I was booked into the Fife Jail where I had to pay \$100. 00 (non refundable) booking fee and a
16 \$600.00 Bond for my release.
17 39. Later, I paid Northwest Towing \$306. 27 to get my vehicle out of impound.
18 40. Upon the retrieval of my vehicle, my glove compartment which was locked was unlocked,
19 searched and left open. My personal belongings that were in my car on the back seat was
20 ransacked and thrown on the floor of my car and my cell phone data based was searched by the
21 Officer's to see if I had called 911. I believed that the actions of Officer CLARY, MASIRS and
22 Lieutenant FADLER were racially motivated and discriminatory in nature.
23

24 **VII. FIRST CAUSE OF ACTION**
25 **UNREASONABLE SEIZURE BY USE OF EXCESASIVE FORCE**
26 **IN VIOLATION OF 42 U.S.C. §1983 and**
27 **ART.1, §§ 3, 7 OF WASHINGTON STATE CONSTITUTION**
28 **(Against All Defendants)**

1 Plaintiff realleges the above paragraphs 1 through 40 with the same force and effect and
2 incorporates the same as though fully set forth herein.

3 41. Officer CLARY and some or all, acting under the authority of the City of Federal and Federal
4 Way Police Department intentionally, negligently, and with deliberate indifference to Plaintiff's
5 rights, caused Plaintiff to be deprived of his constitutional rights and other protections of federal
6 law including the 4th Amendment to the U.S. Constitution and constitutional rights under art. 1, §§
7 3, 7 of the Washington State Constitution by the following acts, among others.
8

- 9 A. Using a degree of force that was unreasonable under the circumstances and in
10 violation of Plaintiff's rights to be free from unreasonable seizure protected by
11 the 4th Amendment
- 12 B. Subjecting Plaintiff McDonald to racial slurs by calling him "Property/Chattel"
13 and punishment without the benefit of a trial by jury in violation of his rights
14 under the 6th and 8th Amendments to the U.S. Constitution; and
- 15 C. Depriving Plaintiff of Liberty by subjecting him to unwarranted and unreasonable
16 restraints on his person with out due process in violation of his rights under the
17 5th Amendment to the U.S. Constitution.

18 42. Responsible superior officers within the Federal Way Police Department, including some
19 individual Defendants and the Department itself, failed to adequately supervise Defendant
20 CLARY.

21 43. Defendant CLARY performed her duties with reckless disregard or callous indifference to
22 Plaintiff's right to be free from unlawful seizure and injury. In the alternative, her actions were
23 negligent.

24 44. The actions referenced above also constitute a reckless disregard or callous indifference to
25 Plaintiff's Constitutional rights in violation of federal law, including but not limited to the 4th
26 Amendment to the U.S. Constitution and other federal law.
27
28

45. The actions of defendants referenced herein were taken under the color of state law, clothed with the authority of government, and purporting to act there under.

46. At all material times, the Defendants City of Federal Way and KIRKPATRICK, former Chief, FADLER, Supervisor and MAIRS (FWPD) by and through Defendant CLARY, had in effect certain explicit and de facto policies, practices and customs which were applied to the acts of their employees and agents alleged herein. These policies, practices and customs include the actions alleged herein, or in the alternative, were the cause of the actions alleged herein.

47. The decisions to act, and to implement or create those policies, practices and customs alleged herein were made, approved, condoned, ratified, or acquiesced in by authorizing policymakers of Defendants City of Federal Way and Federal Way Police Department. These decisions are deliberate choices of Defendants City of Federal Way and Federal Way Police Department and are binding on said Defendants.

48. The above referenced acts caused physical and emotional, and psychological injuries to Plaintiff, including but not limited to those injuries described herein.

49. Plaintiff further alleges that the acts and omissions of the Defendants were motivated by evil motive or intent or involved reckless disregard or callous indifference to Plaintiff's protected rights under the U.S. Constitution and Washington State Constitution. As a result, the Plaintiff is entitled to punitive damages.

50. The acts of Defendants as described herein violate 42 U.S.C. §1983

VIII. SECOND CAUSE OF ACTION
DENIAL OF EQUAL PROTECTION OF THE LAW BECAUSE OF RACE
IN VIOLATION OF 42 U.S.C. §1981
(Against All Defendants)

Plaintiff realleges the above paragraphs 1 through 50 with the same force and effect and incorporates the same as though fully set forth herein.

51. All Americans citizens, including all citizens of Pierce and King County; the State of Washington are entitled to freedom from excessive force and unreasonable searches

1 52. As alleged in the First Cause of Action, Defendants denied Plaintiff those freedoms and treated
2 unfairly, unequally, from other persons not of the African American race and unconstitutionally by
3 the use of excessive force during an unreasonable seizure.
4 53. Plaintiff alleges that he was treated unfairly, unequally and unconstitutionally by the Defendants
5 because of his race in violation of 42 U.S.C. §1981
6 54. As a result of his unfair, unequal and unconstitutional treatment, he suffered severe emotional
7 injury and damages in an amount to be determined at trial.
8

9 **IX. THIRD CAUSE OF ACTION**
10 CONSPIRACY TO DEPRIVE PLAINTIFF OF EQUAL
11 PROTECTION OF THE LAW
12 (Against All Defendants)

13 Plaintiff realleges the above paragraph 1 through 54 with the same force and effect and
14 incorporates the same as though fully set forth herein.

15 55. Defendants CLARY, City of Federal Way, along with Lieutenant FADLER, Supervisor and
16 MAIRS formed a plan and conspired to deprive Plaintiff of the protection of freedom from
17 excessive force and unreasonable seizures secured by the Fourth Amendment of the U.S.
18 Constitution and in violation of 42 U.S.C. §1985(3).

19 56. Defendants CLARY, City of Federal Way, along with Lieutenant FADLER, Supervisor and
20 MAIRS took many steps in furtherance of this conspiracy, including but not limited to arresting
21 Plaintiff without probable cause, using excessive force during the arrest by placing handcuff on
22 so tight that Plaintiff was severe pain, yelling at me, slamming Plaintiff's door which lefts a
23 ringing in his ears; for sole purpose to incite a confrontation, intimidate, harass and humiliating
24 me.

25 57. Defendant CLARY City of Federal Way, along with Lieutenant FADLER, Supervisor and MAIRS
26 took many steps in furtherance of this conspiracy, including but not limited the unsafe
27 transportation of the plaintiff who was in their custody and while transporting of Plaintiff in their
28

1 patrol vehicle; during transport, Plaintiff was rolling from side to side in the vehicle; they failed to
2 adequately secure me in the seat belt which further put my life at risk.

3 58. As a result of this conspiracy, Plaintiff suffered severe emotional injury and damage in an
4 amount to be proved at trial.

5 **X. FOURTH CAUSE OF ACTION**
6 NEGLIGENCE SUPERVISION; RETENTION; HIRING
7 (Against City of Federal Way)

8 Plaintiff realleges the above paragraph 1 through 58 with the same force and effect and
9 incorporates the same as though fully set forth herein.

10 59. Defendants City of Federal Way hired, retained and was obligated to supervise Defendant
11 CLARY, KIRKPATRICK, FADLER and MAIRS in carrying out their duties as employees of the
12 Federal Way Police Department.

13 60. Defendants City of Federal Way have a duty to prevent harm to citizens of Federal Way or any
14 motorist that may use the right way through that city by the actions of Defendant CLARY,
15 KIRKPATRICK, FADLER and MAIRS and all other Federal Way Police Officers.

16 61. Defendants City of Federal Way knew or reasonably should have known that Defendant CLARY,
17 KIRKPATRICK, FADLER and MAIRS exercised poor anger management skills and used poor
18 judgment in dealing with citizens and in making decision to arrest, thereby violating the civil
19 rights of Plaintiff.

21 62. Defendants City of Federal Way failed to use appropriate employee screening devices, training
22 procedures and supervision to address Defendant CLARY, KIRKPATRICK, FADLER and
23 MAIRS's propensity to violate Plaintiff's civil rights.

24 63. The negligent hiring, training and/ or supervision of Defendant CLARY, KIRKPATRICK, FADLER
25 and MAIRS caused injury and harm to Plaintiff as referenced herein.

26 64. Defendants City of Federal Way is liable for the acts of Defendant CLARY, KIRKPATRICK,
27 FADLER and MAIRS.

XI. FOURTH CAUSE OF ACTION
STATE OF COMMON LAW TORT OF ASSAULT AND BATTERY
(Against Defendant Clary)

Plaintiff realleges the above paragraph 1 through 64 with the same force and effect and incorporates the same as though fully set forth herein.

65. Defendant CLARY committed assault on Plaintiff when she used unlawful force against Plaintiff in an attempt to inflict bodily injury on me during my arrest.

66. Defendant CLARY further committed assault on Plaintiff when she placed Plaintiff in fear of harm by her actions during contact with her and during the arrest and placement into her patrol car.

10 67. Defendant CLARY committed battery on Plaintiff when she intentionally had harmful contact with
11 me during my arrest and placement into and removal from her patrol car.

12 68. As a proximate cause of Defendant CLARY assault and battery on Plaintiff; Plaintiff suffered
13 emotional and psychological harm and damages in amount to be proven at time of trial.

XII. FOURTH CAUSE OF ACTION
STATE OF COMMON LAW TORT OF FALSE ARREST AND IMPRISONMENT
(Against Defendant Clary)

Plaintiff realleges the above paragraph 1 through 68 with the same force and effect and incorporates the same as though fully set forth herein.

19 69. Defendant CLARY intentionally, unlawfully and without justification restrained Plaintiff's personal
20 liberty during her arrest of me on January 29, 2005.

21 70. As a result, Defendant CLARY falsely arrested and imprisoned Plaintiff.

22 71. As a proximate cause of Defendant's false arrest and imprisonment of Plaintiff, I suffered
23 emotional and psychological harm and damages in amount to proven at time of trial.

XIII. FOURTH CAUSE OF ACTION
STATE OF COMMON LAW TORT OF NEGLIGENCE INFILCTION OF EMOTIONAL
DISTRESS
(Against All Defendants)

Plaintiff realleges the above paragraph 1 through 71 with the same force and effect and incorporates the same as though fully set forth herein.

1 72. Defendants had a duty to refrain from infliction of emotional distress on Plaintiff.
2 73. Defendants breached that duty on January 29, 2005, by their actions in falsely arresting and
3 imprisoning Plaintiff and by the use of excessive and unreasonable force.
4 74. As a proximate cause of Defendants' infliction of emotional distress on Plaintiff, I suffered mental
5 and emotional injury and damages in an amount to be proven at time of trial.
6

7 **XIV. FOURTH CAUSE OF ACTION**
8 **STATE OF COMMON LAW TORT OF INTENTIONAL INFILCTION OF EMOTIONAL**
9 **DISTRESS**
10 **(Against All Defendants)**

11 Plaintiff realleges the above paragraph 1 through 74 with the same force and effect and
12 incorporates the same as though fully set forth herein.
13 75. During the contact with Plaintiff on January 29, 2005, Defendants' conduct was extreme and
14 outrageous.
15 76. Defendants' conduct with Plaintiff on January 29, 2005, intentionally and recklessly caused the
16 infliction of severe emotional distress on Plaintiff.
17 77. As a result of Defendants' conduct and their intentional and reckless infliction of severe
18 emotional distress on plaintiff, I suffered mental and emotional injury and damage in an amount
19 to be proven at time of trial.

20 **XV. INJURY AND DAMAGES**
21

22 78. Defendants' actions and those of their agents and employees caused injuries to plaintiff
23 including but not limited to physical pain and severe emotional distress, all of which foreseeably
24 flowed from the above-referenced acts of Defendants.
25 79. Defendants' actions and those of their agents and employees were malicious, oppressive,
26 intimidating threatening and racially charged offensive racial language which was with reckless
27 disregard and callous indifference to Plaintiff rights to be free from unreasonable seizure and
28 other violations of his Constitutional rights and federal law. Therefore, Plaintiff is entitled to
29 punitive damages in amount to be proven at time of trial.

1 80. For the reasons stated herein, Plaintiff alleges he is entitled to compensatory, punitive and other
2 damages in an amount to determine at the time of trial.

3 **XVI. INJURY AND DAMAGES**

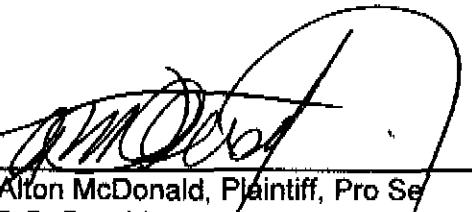
4 WHEREFORE, Plaintiff pray that judgment be entered in his favor for the following:

5 1. General damages for emotional distress and psychological damage in an amount to be
6 proven at time of trial.
7
8 2. Actual damages including loss of property and belongings.
9
10 3. Punitive damages in amount to be proven at time of trial.
11
12 4. For whatever further additional relief the court shall deem to be just and equitable.

13 **XVII. JURY DEMAND**

14 Plaintiff hereby demands a trial by jury of his peers.

15 DATED: March 14, 2007.

16 By: 
17 Alton McDonald, Plaintiff, Pro Se
18 P.O. Box 9005
19 Tacoma, WA 98409
20 Phone: (253) 255-2619

1
2 **CERTIFICATE OF SERVICE**
3

4 1. I HEREBY CERTIFY THAT THE ABOVE AND FOREGOING Plaintiff's Original Complaint will
5 be served on Defendants by Personal Service or via United States Mail with Postage paid at the
6 address listed below, on this the 14th day of March 2007.

7 KRYSTAL KELSEY, Deputy City Clerk
8 City of Federal Way
9 P.O. Box 9718
10 Federal Way, WA 98063-9718
11 Phone: (253) 835-7000

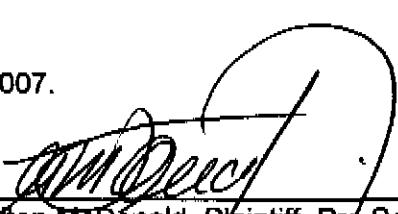
12 ANNE E. KIRKPATRICK, Chief of Police
13 Spokane Police Department
14 1100 West Mallon
15 Spokane, WA 99260-0001
16 Phone: (509) 625-4050

17 EDWARD O. FADLER, Lieutenant Supervisor
18 FEDERAL WAY POLICE DEPARTMENT
19 P.O. Box 9718
20 Federal Way, WA 98063-9718
21 Phone: (253) 835-6700

22 BRIGIT L. CLARY
23 FEDERAL WAY POLICE DEPARTMENT
24 P.O. Box 9718
25 Federal Way, WA 98063-9718
26 Phone: (253) 835-6700

27 MANUELL C. MAIRS
28 FEDERAL WAY POLICE DEPARTMENT
29 P.O. Box 9718
30 Federal Way, WA 98063-9718
31 Phone: (253) 835-6700

32 DATED at Tacoma, Washington this 14th day of March, 2007.

33 By: 
34 Alton McDonald, Plaintiff, Pro Se
35 P.O. Box 9005
36 Tacoma, WA 98409
37 Phone: (253) 255-2619



CITY HALL
33325 8th Avenue South
Mailing Address: PO Box 9718
Federal Way, WA 98063-9718
(253) 835-7000
www.cityoffederalway.com

(253) 835-2562

January 2, 2007

Alton McDonald
7423 S. Pine Street
Tacoma, WA 98409

Re: Claim for Damages #: 06-01-091-500
Date of Incident: January 29, 2005
Description: Racial Profiling, Discrimination, and Unlawful Arrest

Dear Mr. McDonald:

The purpose of this letter is to respond to the claim for damages that you filed with the City of Federal Way on December 11, 2006.

After investigating the circumstances and reviewing the documentation surrounding the incident that occurred on January 29, 2005, the City has determined that it has no liability and therefore, must deny your claim.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Dunnachie".

Heather Dunnachie
Legal Assistant / Risk

Hvd

cc: Andy Hwang, Deputy Chief
Patricia Richardson, City Attorney

K:\RJSK\Claims\2006\McDonald Denial



Federal Way

CLAIM FOR DAMAGES

Note: Please read entire claim form before filing it. Federal Way Ordinance No. 91-88 specifies the requirements claimant must follow in making a claim against the City.

Name of Claimant (or business name): McDonald Atton Lloyd
 Last First Middle

Claimant Resides at 7423 S. Pine Street
TACOMA, WA 98409

Phone: Day 253-255-2619 Evening 253-255-2619

Claimant(s) said injuries and/or damage occurred on the 29 day of January 2005
 At approximately 5:25 o'clock am/pm.

Describe in detail how damages or injuries occurred. Give full details, including what defect, act or omission allegedly caused the damages or injuries and list all witnesses.

OFFICER BRIGIT CLARY #105 racially profile and unlawfully arrested me which causes me emotional distress, humiliation and susceptibility to racial discrimination. LT. ED. FADLER #23 cause further emotional distress and humiliation

Witness: NATASHA GORDON.

Where did damages or injuries occur? Describe fully, naming streets and indicating place of accident; i.e., north, south, east or west.

Highway 18 EAST

What damages or injuries do you claim resulted? Indicate full extent of injuries or damages claimed. Give the dollar value you claim as a result of each item of injury or damage. Attach repair estimate(s) or medical report(s), if available.

Emotional distress, trauma, humiliation, racial profiling and racial discrimination in direct violation of my civil rights. seek Damages in the amount of \$750,000.00.

List expenses paid and to whom paid (attach additional pages, if necessary)

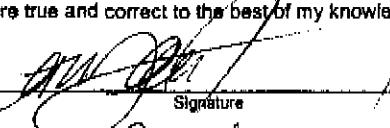
| Name | Item | To Whom Paid | AMOUNT |
|----------------------------|------|--------------|---------------------|
| <u>NW Towing</u> | | | <u>\$750,000.00</u> |
| <u>FIFE Municipal Jail</u> | | | <u>\$100.00</u> |
| | | | <u>\$750,000.00</u> |

Total amount of damages claimed:

TOTAL \$750,400.127

Signed at TACOMA this 11 day of December 2006

I hereby declare that the foregoing statements and information are true and correct to the best of my knowledge and belief.


 Signature

date of Dec 12 2006

SUBSCRIBE AND SWORN to before me this

Notary Public
 State of Washington
 DENNIS PRELMER
 My Commission Expires Aug 22, 2009


 Notary Public in and for the
 State of WA residing at TACOMA
 My commission expires: Aug 22, 2009